

**REMARKS**

This Amendment is in response to the Office Action mailed on June 25, 2004. In the Office Action, the Examiner:

- objected to the disclosure for informalities;
- provisionally rejected claims 1-3 and 13-15 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over copending Application No. 09/796848.
- rejected claims 1-3, 7 and 10-19 under 35 U.S.C. 103(a) as being unpatentable over Elwahab et al. in view of Ayanoglu et al. and further in view of Hall;
- rejected claims 4-6 under 35 U.S.C. 103(a) as being unpatentable over Elwahab, Ayanoglu and Hall as applied to claims 1-3, 7, 10-19, and further in view of Chiu et al.;
- objected to claims 8-9 as being dependent upon rejected base claim.
- allowed claims 20-21.

In this response, the specification has been amended to correct typographical errors, and claims 1, 8 and 11 have been amended. New claims 22-23 are added. Entry thereof into the instant application is requested.

Claim 1 as amended recites:

A communications system for servicing customers connected to access points and using an established backhaul transport to an office comprising:  
one or more environmentally hardened remote digital subscriber line access multiplexers placed at locations away from said office to be near said customers,  
connecting means for connecting said access multiplexers to said access points,  
and  
an alternate backhaul transport in parallel with said established backhaul transport for connecting said access multiplexers to provide broadband services to said customers..

Claim 1 as amended is distinguishable from Elwahab in view of Ayanoglu and further in view of Hall. Elwahab discloses a method for remote management of network elements in a system having an established backhaul transport via a central office. In Elwahab, the backhaul

transport is located at the central office and is used to route both voice and data (Fig. 1 and Paragraph [0020]). Elwahab does not disclose an alternate backhaul transport for broadband communication in parallel with the established backhaul transport. Elwahab also does not disclose remote digital subscriber line access multiplexers connected to such an alternate backhaul transport and placed at locations away from the central office to be near customer premises. In contrast, Elwahab presents a typical situation where digital subscriber line (DSL) services are deployed by installing a digital subscriber line access multiplexer (DSLAM) at the central office (Fig. 1). As recited in Paragraph 11 in the specification of the present application, while this connection can be satisfactory when no local concentrator is present, DSLAMs located at the central office generally cannot send data traffic directly to customer modems for customers serviced through concentrators such as digital loop carriers (DLC), because of insufficiency of the legacy equipment or poor POTS line quality resulting from long distances from a central office or other conditions. In short, Elwahab presents a system having disadvantages that the claimed invention in amended claim 1 is attempting to overcome.

Ayanoglu discloses a system for extending ATM from the LAN/WAN infrastructure towards wireless users. In Ayanoglu, a wireless LAN carrying "wireless ATM" (WATM) to support ATM cell transport directly into the terminals of the users is connected to a wide area network (WAN) carrying standard ATM via a WATM/ATM converter in between (Fig. 2, and Col. 1, line 60 to Col. 2, line 2). As such, the WATM is not an alternate backhaul transport in parallel with the WAN. In fact, both the WATM and WAN are linked together in series to be part of the communication mechanisms in Ayanoglu (Fig. 3). Thus, Ayanoglu does not disclose an alternate backhaul transport for communications between an office and customer premises in parallel with an established backhaul transport.

Hall discloses a weather resistant modular sensor and computing platform. But Hall does not disclose how the sensor or computing platform can be used in a system similar to that claimed in amended claim 34.

Therefore, claim 1 as amended is patentable over Elwahab, Ayanoglu, and Hall.

Claims 2-7, claim 10, claim 11 as amended, and claims 12-19 depend from claim 1 as

amended, and include further limitations in addition to the limitations in claim 1 as amended. Therefore, Claims 2-7, claim 10, claim 11 as amended, and claims 12-19 are patentable over Elwahab, Ayanoglu, and Hall for at least the same reasons claim 1 as amended is patentable.

Claims 8 and 9 were objected to because they depended from rejected base claim 1 as previously presented. Claim 8 has been rewritten in independent form including all of the limitations of claim 1 as previously presented. Therefore, claim 8 as amended is allowable. Claim 9 depends from amended claim 8 and includes further limitations in addition to the limitations in amended claim 8. Therefore, claim 9 should also be patentable.

As the double patenting rejection is provisional and claims have not yet been allowed in the copending application 09/796,848, Applicant submits that upon allowance of some or all of claim 1 as amended, claims 2-3, and claims 13-15 in this application, Applicants will file a terminal disclaimer in compliance with 37 CFR 1.321(c) to overcome the provisional rejection of claims 1-3 and 13-15 under the judicially created doctrine of obviousness-type double patenting. Alternatively, applicant will amend or cancel claims in the 09/796,848 application.

New method claim 22 is added in accordance with claim 1 as amended. The arguments regarding claim 1 as amended is thus applicable to new claim 22. Therefore, new claim 22 should be allowable.

New claim 23 depends from new claim 22 and includes further limitations in addition to the limitations in new claim 22. Therefore, new claim 23 is allowable for at least the same reason new claim 22 is allowable.

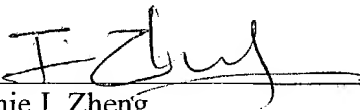
If any matters can be resolved by telephone, the Examiner is invited to call the undersigned agent at the telephone number listed below. The Commissioner is authorized to charge any additional required fees, or credit any overpayment, to Dorsey & Whitney LLP Deposit Account No. 50-2319 (Order No. A-68677-1/MSS (464334-146)).

Respectfully submitted,

DORSEY & WHITNEY LLP

Dated: November 24, 2004

By:

  
\_\_\_\_\_  
Jamie J. Zheng  
Registration No. 51,167  
For R. Michael Ananian  
Registration No. 35,050

**Customer No. 32940**  
Dorsey & Whitney, LLP  
Intellectual Property Department  
Four Embarcadero Center, Suite 3400  
San Francisco, CA 94111-4187  
(650) 494-8700 (telephone)  
(650) 494-8771 (facsimile)  
RMA/JJZ  
Document No. 1080288.1